

GOVERNMENT OF TELANGANA

ABSTRACT

Tribal Welfare Department – Bhadrachalam District – Revision Petitions under Land Transfer Regulations 1/59 as amended by Regulation 1/70 – Revision Petition filed by Sri Kakarlapudi Laxmipathi Raju S/o Venkata Subba Raju R/o Santosh Nagar, PV Township of Manuguru Mandal, Bhadrachalam District against orders passed by the Additional Agent to Government in CMA No.12/2003, dated 27.10.2007 and orders of the Special Deputy Collector (TW), Bhadrachalam in LTR case No.53/2000/MGR, dated 11.11.2002 for the land admeasuring Acs.6.00 gts in Sy.No.138/1552 situated in Manuguru village and Mandal, Bhadrachalam District – Allowed – Orders –Issued.

TRIBAL WELFARE (LTR) DEPARTMENT

G.O.Ms.No.15

Dated:02.05.2022,
Read the following:-

- 1) Revision Petition filed by Sri K.Laxmipathi Raju S/o Venkata Subba Raju R/o Mallaram (V) Manuguru (M) Khammam District dated 26.04.2008.
- 2) G.O.Ms.No.57, TW (LTR) Department, dated 28.7.2021.
- 3) Orders of the Hon'ble High Court in WP No.18149 of 2021, dated 05.8.2021.
- 4) Orders of the Hon'ble High Court in WP No.464 of 2021, dated 20.9.2021.
- 5) Miscellaneous Petition filed by Revision Petitioner through his Counsel Sri P.V.Ramana dated 25.9.2021.
- 6) Govt.Notice No.3384/TW.LTR/2008, dated 07.10.2021
- 7) Govt.Notice No.3384/TW.LTR/2008, dated 15.11.2021
- 8) Vakalat by Sri Surya Balu Mahendra dated 20.11.2021 on behalf of Impleaded Respondents 4,5 and 6 (Karam Kasulamma, Ganiboina Sujatha and Ganiboina Shantamma).
- 9) Govt.Notice No.3384/TW.LTR/2008, dated 06.12.2021.

ORDER :

In the reference 1st read above, Sri Kakarlapudi Laxmipathi Raju S/o Venkata Subba Raju R/o Manuguru village and Mandal of erstwhile Khammam District (now Bhadrachalam District) has submitted Revision Petition U/s.6 of the LTR 1/59 as amended by Regulation 1/70 before the Government against the orders of the appellate authority i.e. Additional Agent to Government, Bhadrachalam in CMA No.12/2003, dated 27.10.2007 and orders of the Special Deputy Collector (TW), Bhadrachalam in LTR case No.53/2000/MGR, dated 11.11.2002 in respect of the land admeasuring Acs.6.00 gts in Sy.No.138/1552 situated in Manuguru village and Mandal, urging the following the grounds:

- Order of Addl.Agent to Govt. Bhadrachalam, Khammam District in CMA No.12/2003, dated 27.11.2007 in confirming orders of ejectment dt.11.11.2002 in LTR case No.53/2000/MGR by Special Deputy Collector (TW), Bhadrachalam, Khammam District is contrary to law, weight of evidence and probabilities of the case.
- The Addl.Agent to Government Bhadrachalam failed to notice that no enquiry was conducted by the Special Deputy Collector (TW), while passing ejectment order, which is violative of principles of natural justice.

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- He is the absolute owner of the schedule property. His father Kakarlapudi Venkata Subba Raju and his brother Kakarlapudi Jagannadha Raju jointly purchased the said land from Buddaraju Suryanarayana Raju on 8.8.1958 in Sy.No.138/1552 to an extent of 6.00 guntas situated in Manuguru village of Manuguru Mandal, Khammam District within the following boundaries:

East: Land of Buddaraju Suryanarayana Raju
West: Land of Malledu Lalaiah
North: Land of Puli Veeraiah
South: Land of Udathani Appaiah

- In the partition between his father and father's brother, schedule property fallen to his father's share. After that, he inherited the property and enjoying the same as legal heir of his father. His name also entered in the revenue records.
- The Additional Agent to Government, Bhadrachalam failed to notice that the then Mandal Revenue Officer, Manuguru had issued Pattedar Pass Book and Title Deeds in his favour by validating the sale in the year 1993.
- The observation made by the lower court that the transaction was in violation of provisions of the AP(SA) LTR 1/59. The Additional Agent to Government, Bhadrachalam failed to notice that the provisions of Regulation are purely prospective in nature and not affect past transactions of transfers effected between tribals and non-tribals or between non-tribals and non-tribals themselves in the Agency tracts at a time when neither Regulation 1 of 1959 nor Regulation I of 1970 was in force. Such past transaction remained untouched by the sweep of the aforesaid subsequently enacted Regulations. As such the purchase made much prior to the Act 1/1959 and is valid one. The transaction is also made between two non-tribals and not between tribal and non-tribal.
- The Additional Agent to Government, Bhadrachalam failed to notice that on the report of the Special Deputy Tahsildar, Bhadrachalam dated 29.02.2000 alleged to have initiated case on the observation that he is in possession of the land admeasuring acs.6.00 in Sy.No.138/1552 of Manuguru village, claiming under transfer made by one Buddaraju Suryanarayana Raju against the provisions of Sec.3 (i) of AP (SA) LTR 1/59 and accordingly a LTR case was registered against him and ordered ejectment on 11.11.2002 directing the MRO Manuguru to take possession of the appeal schedule property. In fact no notice was served on him and the order was passed in his absence as such he has no knowledge about the proceedings. He came to know about the order under appeal only on 20.03.2003 when the revenue authorities came to his land for survey. He obtained certified copy of the said order and filed appeal immediately.
- That the Additional Agent to Government, Bhadrachalam failed to notice that the Special Deputy Collector without going into the facts and proper enquiry passed the impugned order observing that the transfer of schedule property was made in contravention of the sub-section 1 of section 3 of AP(SA) LTR 1959. The observation made by the lower court that the transaction is in contravention of

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Regulation 1/59, after commencement of the Regulation, and as such it is null and void, is not correct.

- Hence, prayed to order for stay of all further proceedings in pursuance of the order of the Additional Agent to Government Bhadrachalam in CMA No.12/2003, dated 27.11.2007 in confirming the orders of ejectment dated 11.11.2002 in LTR case No.53/2000/MGR by the Special Deputy Collector pending disposal of the above appeal, in the interest of justice and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

2. In the reference 2nd read above, Government after conducting several hearings and after detailed examination of the evidences available on record, have passed orders allowing the Revision Petition filed by the Revision Petitioner duly setting aside orders of the Additional Agent to Government Bhadrachalam in CMA No.12/2003, dated 27.10.2007 and Special Deputy Collector (TW), Bhadrachalam in LTR case No.53/2000/MGR, dated 11.11.2002 in respect of the schedule property admeasuring acs.6.00 gts in Sy.No.138/1552 situated in Manuguru village and Mandal of Bhadradri Kothagudem District.

3. Aggrieved by the above orders, Smt.Karam Kasulamma W/o Venkataiah, Smt.Ganiboina Sujatha W/o Srinivas and Smt.Ganiboina Shanthamma W/o Bodaiah all residents of Manuguru village and Mandal of Bhadradri Kothagudem District have filed WP No.18149 of 2021 before the Hon'ble High Court praying to set aside the order as it was issued without issuing notice to them and not following due process of law and principles of natural justice.

4. In the reference 3rd read above, the Hon'ble High Court disposed the above Writ Petition on the ground of principles of natural justice and set aside the orders of the Government under reference 2nd read above with a direction to give an opportunity to both sides and then pass appropriate orders, in accordance with law, as expeditiously as possible, preferably within a period of two months from the date of receipt of a copy of the order.

5. In the reference 4th read above, the Hon'ble High Court has dismissed the Writ Appeal No.464 of 2021 filed by the Revision Petitioner making the following order:

"This Writ Appeal is filed challenging the order dated 05.08.2021 in W.P.No.18149 of 2021 passed by the learned Single Judge.

2. There is no dispute that in the Revision filed under Section 6 of Scheduled Area Land Transfer Regulation No.1 of 1959 by the 4th respondent, the writ petitioners/respondent Nos.1 to 3 were not impleaded as parties though an assignment was made in their favour by the 8th respondent during pendency of appeal before the 6th respondent against the order dated 11.11.2002 of 7th respondent.

3. Since the revisional order is adverse to respondent Nos.1 to 3 and such order has been passed behind their back, the learned Single Judge, in our opinion, has rightly set it aside and

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remitted the matter back to the 4th respondent for fresh consideration and directed the appellant to implead respondent Nos.1 to 3 in the said revision. We, therefore, do not find any reason to interfere with the said order.

4. Accordingly, the Writ Appeal is dismissed.”

6. Accordingly, in the reference 5th read above, in compliance to the orders of the Hon’ble High Court in WP No.18149 of 2021, dated 5.8.2021 and WA No.464 of 2021, dated 20.9.2021, the Revision Petitioner Sri Kakarlapudi Laxmipathi Raju S/o Venkata Subba Raju has filed Miscellaneous Petition through his Counsel Sri P.V.Ramana under Order 1 Rule 10 CPC stating that:

- i) He has purchased land to an extent of 6 acres in Sy.No.138/1552 on 8.8.1958 from Buddaraju Suryanarayana Raju. Jagannadha Raju is the brother of his father Venkata Subba Raju. LTR case 53/2000 was registered without any power and authority at the instance of Tahsildar on 29.02.2000. LTR case was ordered on 11.11.2002 directing ejection from the land. On 20.03.2003 copy was communicated. On 1.4.2003, he filed an appeal before the Agent/Additional Agent to Government Bhadrachalam. When the appeal/CMA is pending along with Stay Application, when the matter is being adjourned against Stay Application from time to time, under the guise of panchanam, lands were assigned to the unofficial respondents 4 to 6 (Karam Kasulamma, Ganiboina Sujatha, Ganiboina Shanthamma) arbitrarily on 23.8.2004. On 8.9.2004 in WP No.15980/2004, the High Court passed orders directing the official respondents for not to dispossess him from the lands in question. The CMA filed by him No.12/2003 was dismissed on 27.10.2007. He has filed Revision Petition before the Government questioning both the orders. The said Revision was allowed by issuing G.O.Ms.No.57, Tribal Welfare, dated 27.8.2021 declaring that transfer taken was not hit by Regulation 1/70. The said order was questioned by the unofficial respondents in W.P No.18149/2021 on the ground that since they were assigned during the pendency of CMA, they are the necessary parties for issuing notices before disposing the Revision. The Learned Single Judge in W.P No.18149/2021, dated 5.8.2021 directed the Revision Petitioner should take steps to implead the unofficial respondents in the Revision and remanded the matter to the Government for disposal of the same within 2 months. Against the said orders, the Revision Petitioner has filed Writ Appeal No.464/2021 and the Appellate Court also confirmed orders of the Learned Single Judge. Accordingly, the Revision Petitioner is filing the Implead Petition for impleading the unofficial respondents 4,5 and 6 viz., Karam Kasulamma, Ganiboina Sujatha and Ganiboina Shantamma as unofficial respondents 4,5 and 6 for issuing notices to the said persons before deciding the Revision. Accordingly, the Implead Application is filed.
- ii) Therefore, prayed the Government to pass orders for impleading the unofficial respondents 4, 5 and 6 i.e. Karam Kasulamma, Ganiboina Sujatha and Ganiboina Shantamma for issuing notices on the said persons for disposal of the Revision and to pass such other order or orders as this Appellate Authority may deem fit and proper in the circumstances of the case.

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7. In the references 6th, 7th and 9th read above, Notices were issued to the Respondents 4 to 6 and hearing taken up 23.10.2021, 20.11.2021, and 23.12.2021. Sri S.Balu Mahendra, Advocate has filed Vakalat on behalf of Respondents 4 to 6 on 20.11.2021. On 23.12.2021, Respondents 4 to 6 and their Counsel called absent. The Tahsildar, Manuguru present and submitted acknowledgement of Notices served on Respondents 4 to 6 and also placed relevant record before the Government. On perusal of the record placed before by the Tahsildar, Manuguru, it is found that the Respondents R4 to R6 are having other lands also in various survey numbers in Manugur Mandal – details are as under:

R4 Karam Kasulamma - is having total of 6.00 acres i.e. 4.00 acres in Sy.No.363AA (Patta) and 2.00 acres in Sy.No.138/22/1 (Inherited) in Manuguru village and Mandal.

R5 Ganiboina Sujatha W/o Srinivas - is having total of acs.7.39 gts i.e. acs.1.14 gts (Inherited) in Sy.No.376/EE, acs.2.00 (Assigned) in Sy.No.49/54, acs.2.25 gts (Assigned) in Sy.No.49/70 and acs.2.00 (Inherited) in Sy.No.138/23/1 – in Manuguru and Mallaram villages of Manuguru Mandal.

Sri Ganiboina Srinivas S/o Bodaiah i.e. husband of R5 Ganiboina Sujatha is having acs.18.02 gts i.e. acs.10.37 gts (Patta) in Sy.No.156/139 and acs.7.05 (Patta) in Sy.No.156/593 in Pamulapalli village of neighbouring Aswapuram Mandal.

R6 Ganiboina Shantamma W/o Bodaiah (mother-in-law of R5) is having acs.4.04 gts i.e. acs.2.04 gts (Patta) in Sy.No.297/A/1 and acs.2.00 (Assigned) in Sy.No.138/24/1 in Manuguru village & Mandal.

8. Government after careful examination of the entire case record once again, found that:

- i) The schedule property i.e. acs.6.00 in Sy.No.138/1552 of Manuguru village was Patta land of a non-tribal viz., Sri Buddaraju Suryanarayana Raju and never belonged to any tribal.
- ii) The sale agreement dated 8.8.1958 and the corroborative evidences on record establish that the transaction took place between Sri Buddaraju Suryanarayana Raju and Sri Kakarlapudi Jagannadha Raju prior to the commencement of the Regulation 1 of 1970, is valid. The said fact was not considered by both the lower authorities which goes into root of the matter. The names of the Revision Petitioner and his family members were recorded in the Pahanies before commencement of Regulation 1 of 1959 (came into force in Telangana from 1.12.1963) and also after the amended Regulation I of 1970 came into force w.e.f. 3.2.1970. This was also agreed by the Appellate Authority.
- iii) Perused copies of pahanies from 1958-59 to 2003-04 and found names of the non-tribals i.e. Buddaraju Suryanarayana Raju, Sri Kakarlapudi Jagannadha Raju, Kakarlapudi Bangaramma and Kakarlapudi Laxmipathi Raju (Revision Petitioner herein).

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- iv) Therefore, the authorities under the Regulation have no jurisdiction to pass orders under Sec.3(2) of the Regulation declaring the transfer as null and void in the light of the judgement delivered by the Full Bench of the Hon'ble High Court in WP No.4204 of 1977 and WA Nos.64, 68 and 231 of 1979 and AAO No.151 of 1979, dated 21.8.1981, wherein it was held that Section 3 (1) of the Regulation 1 of 1970 is not retrospective in operation and cannot be adjudicated by the authorities under Section 3 (2) of the Regulation, including the transfers that were made under unregistered sale deeds as held by the Hon'ble High Court in WP Nos.5684 of 1988 and 15544 of 1989 decided on 27.9.1999.
- v) Further, the agreement of sale having value of Rs.100/- and above require registration as per Section 17 clause (g) of AP Act 4 of 1999 – but the transaction in the present case took place on 8.8.1958 which is much prior to enactment of Act 4 of 1999 and hence, the transfer does not require registration. However, the MRO Manuguru validated the said sale dated 8.8.1958 between Sri Buddaraju Suryanarayana Raju and Sri Kakarlapudi Jagannadha Raju by collecting requisite Stamp Duty and Registration Fee as required under Indian Registration Act, 1908, issued 13-B Certificate and also Pattedar Pass Book and Title Deed under the Act No.26 of 1971 following due procedure as prescribed therein.
- vi) The record of Manuguru Mandal placed before by the Tahsildar, Manuguru on 23.12.2021 speaks about owning of other agriculture lands also by the Respondents 4 to 6 – i.e. acs.6.00, acs.7.39 gts and acs.4.04 gts respectively in other survey numbers in Manuguru/Mallaram villages of Manuguru Mandal and husband of R5 namely Sri Ganiboina Srinivas is also pattedar of agriculture land of acs.18.02 gts situated in Sy.Nos.156/139, 156/593 of Pamulapalli village in the neighbouring Aswapuram Mandal, as shown above.
- vii) The schedule property under Revision was assigned to them though they are owning other agricultural lands in other survey numbers in the same village/Mandal when the Appeal filed by the Revision Petitioner was pending before the Appellate Authority i.e. Agent to Government/Additional Agent to Government besides directions of the Hon'ble High Court in WP No.15980/2004 not to dispossess the Revision Petitioner. Thus, the Respondents 4 to 6 have no legal claim as the basis of proceeding is gone - all consequential acts, actions, orders would fall to ground automatically which principle is applicable to judicial, quasi - judicial and administrative proceedings equally as per the settled principles of law and the ratio laid down by the Hon'ble Supreme Court in Criminal Appeal Nos.753-755 of 2009; in Badrinath Vs State of Tamilnadu & Others, AIR 2000 SC 3243; and State of Kerala Vs Puthenkavu N.S.S.Karayogam & Anr., (2001) 10 SCC 191.
- viii) The Revision Petition is pending before the Government since 2008 i.e. for (14) years. In spite of giving opportunity, the Respondents R4 to R6 failed to argue and prove their case beyond the time fixed by the Hon'ble High Court.

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9. Therefore, in view of the facts and evidences available on record, Government hereby allow the Revision Petition filed by the Revision Petitioner Sri Kakarlapudi Laxmipathi Raju S/o Venkata Subba Raju R/o Santosh Nagar, PV Township of Manuguru Mandal, Bhadradri Kothagudem in respect of the land admeasuring acs.6.00 in Sy.No.138/1552 in Manuguru village and Mandal of Bhadradri Kothagudem District having boundaries – East: Land of Buddharaju Suryanarayana Raju & others, West: Land of Malledu Lalaiah & others, North: Land of Puli Veeraiah & others, South: Land of Udathaneni Appaiah & others; duly setting aside orders of the Additional Agent to Government, Bhadrachalam in CMA No.12/2003, dated 27.10.2007 and the Special Deputy Collector (TW), Bhadrachalam in LTR case No.53/2000/MGR, dated.11.11.2002.

10. The official Respondents in the Revision Petition i.e. Additional Agent to Government Bhadrachalam, the Special Deputy Collector (TW), Bhadrachalam and the Tahsildar, Manuguru Mandal, Bhadradri Kothagudem District shall take necessary action accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

Dr. CHRISTINA Z.CHONGTHU
SECRETARY TO GOVERNMENT

To

Sri Kakarlapudi Laxmipathi Raju, S/o Venkata Subba Raju
R/o. Santosh Nagar, PV Township, Manuguru, Manuguru Mandal,
Bhadradri Kothagudem District (Revision Petitioner)

The Additional Agent to Government & Project Officer, ITDA
Bhadrachalam, Bhadradri Kothagudem District

The Special Deputy Collector (TW), Bhadrachalam Bhadradri
Kothagudem District.

The Tahsildar, Manuguru Mandal, Bhadradri Kothagudem District.

Copies to:

Smt.Karam Kusulamma, W/o. Venkataiah, H.No. 3-1-114, Samithi
Singaram, Manuguru Colls, Bhadradri Kothagudem District(R4).

Smt.Ganiboina Sujatha, W/o. Srinivas, R/o. H.No. 4-1-39/4, Samithi
Singaram, Manuguru Colls, Bhadradri Kothagudem District(R5).

Smt.Ganiboina Shanthamma, W/o. Bodaiah, R/o. H.No. 8-2-132/6, Samithi
Singaram, Manuguru Colls, Bhadradri Kothagudem District(R6).

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Sri Surya Balu Mahendra, Advocate, H.No.1-3-183/40/89/C/2,
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The PS to Hon'ble Minister for ST Welfare,W&CW.

The PS to Secretary (TW)

The PA to Special Secretary (TW)

SF/SC

//FORWARDED :: BY ORDER//

SECTION OFFICER